NORTH CENTRAL REGIONAL TRANSIT DISTRICT (NCRTD)
FINANCE SUBCOMMITTEE

August 23, 2013
9:00 a.m. - 11:00 a.m.

Executive Conference Room
1327 N. Riverside Drive
Espanola, NM 87532

AGENDA

CALL TO ORDER: Tim Vigil, Chair

Roll Call:

ITEMS FOR DISCUSSION/RECOMMENDATION

A. **Hinkle and Landers Audit Entrance Conference**
Sponsor: Anthony Mortillaro, NCRTD Executive Director and Glenda Aragon, Finance Manager.

B. **Minutes from July 26, 2013 Meeting**
Draft Minutes

MATTERS FROM THE SUBCOMMITTEE

ADJOURN

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Finance Subcommittee

Meeting July 26, 2013

9:00 a.m.

Board Members Present (Telephonically): *Leandro Cordova - Taos County, Miguel Chavez – Santa Fe County, Tim Vigil – Pojoaque Pueblo*

Staff Present: *Anthony Mortillaro – Executive Director, Glenda Aragon – Finance Manager, Dalene Lucero – Executive Assistant*

Guest(s) Present*: Peter Dwyer – Legal Counsel, Basham and Basham*

Absent: *Barney Trujillo - Rio Arriba County, Robert Anaya - Santa Fe County, Philo Shelton – Los Alamos County*

Transcribed By: Dalene E. Lucero – Executive Assistant

ROLL CALL

APPROVAL OF AGENDA

A. Discussion of Social Security Coverage and Elections

Mr. Mortillaro begin the discussion stating the NCRTD had been participating and taking deductions erroneously for Social Security. This being so, because according to PERA and the Social Security Administration, a public employer who participates in a qualified retirement plan may only provide Social Security Coverage through a modification to the State's Section 218 agreement with the federal government. He continued further stating that unless the District enters into a Section 218 agreement the District should not withhold Social Security from employees. Mr. Mortillaro continued further stating that PERA Legal Counsel, District Legal Counsel, staff and a Social Security Expert consultant have been discussing and reviewing this matter and are recommending that the board take remedial action to correct this matter. He proceeded with the discussion stating that if the board must first decide if it wishes to provide Social Security Coverage. If they do not, they must determine if they want to create a supplemental pension plan. If "yes" the board must pass a resolution authorizing a referendum of current employees.

Mr. Mortillaro continued noting the two types of elections that were available if the Board wishes to provide Social Security Coverage, one being an individual choice election and the other a majority choice election. He went on stating that in an individual choice election each current employee determines whether they want social security coverage or not on an

individual basis. Those who opt out of Social Security will receive a refund for up to three (3) years, three (3) months and fifteen (15) days as will the employer for their portion of contributions for those employees. Mr. Mortillaro continued stating that those who vote "no" will also lose prior year's credit for contribution to Social Security during their time employed with the District. He went on to note that with an individual choice election, former employees will not be impacted.

Mr. Mortillaro continued to explain the effects of the majority choice election option, stating that the majority of voters determine whether or not all employees will have Social Security coverage. This decision will impact former and current employees, meaning if the majority vote is to discontinue Social Security, then previous employees will lose prior years of credit with social security while they were employed with the District, but had no vote in the matter.

It was recommended that the Board continue to participate in Social Security as well as authorize an individual choice election on the basis that: a) it allows each employee to make an informed decision based upon their best interest; b) it prevents the majority from imposing its decision on the minority; c) avoids hard feelings amongst employees; d) the incentive to make a decision based on the refund of three (3) years, three (3) months and fifteen (15) days is very appealing for those interested in only short term gains, but may not be in the long term interest of the employee; e) it mitigates impacts on prior employees whom would not have a vote and secures past employees contributions and credits towards Social Security.

Mr. Mortillaro went on to state that a Social Security expert would be available to inform employees of their options on a group and individual basis. He also asked that the Board consider keeping all benefit levels equal for all employees, thus developing a supplemental pension plan in lieu of Social Security for those employees who choose to opt out of Social Security. Mr. Mortillaro added that the additional plan would have no added costs to the District (other than initial set-up fees).

Mr. Mortillaro asked whether or not Mr. Dwyer or Ms. Aragon had any comments regarding this matter.

Mr. Dwyer stated that he did not and that Mr. Mortillaro covered everything that was necessary.

Ms. Aragon also agreed.

Mr. Chavez made a motion to approve staff's recommendation to proceed with the individual election to provide social security coverage, as well as to provide a supplemental pension plan to employees who elect to opt out of social security. Mr. Cordova seconded the motion and it passed by unanimous voice vote.

Mr. Mortillaro stated that the individual choice election will be held on November 5, 2013 and that the election committee members are needed to be present at election sites. He also asked if Board members were interested in participating in this committee to let him know fairly soon. Mr. Mortillaro noted that referendum committee members would be presented in the September Board meeting.

B. Revision to Rule 3: Compensation and Classification Section of the Personnel Policies and Procedures

Mr. Mortillaro referenced the completed Compensation and Classification study that was initially presented to the Finance Subcommittee and the Board on July 12, 2013. He noted the items that were presented in regards to the study also contained a model compensation policy which have also been incorporated into the District's existing Rule 3 "Compensation and Classification" which will also address and clarify matters related to compensation practices. Mr. Mortillaro briefly went over the policies in terms of the District's compensation philosophy, how the general wage and salary adjustments will be made, what will be taken into consideration for any adjustments, etc. Mr. Mortillaro also noted that the amendments also clarify that certain compensation practices do not apply to those covered under the Collective Bargaining Agreement. He went on to mention the new addition of "red circling" in the policies, stating that an employee is red circled when their current salary is above the maximum of the pay range, meaning they are frozen and do not receive salary increases on their base pay, it is distributed as a lump sum. Mr. Mortillaro continued stating that there was further clarification on the time line in regards to payment of a terminated employee and so forth.

It was recommended that the Finance Subcommittee review the proposed changes and provide an endorsement for the Board's consideration.

Mr. Chavez made a motion to approve the policy amendments to Rule 3 Compensation and Classification. Mr. Cordova seconded the motion and it passed by unanimous voice vote.

Mr. Vigil noted that the changes are to clean up the policies set in place, as well as to reflect a majority of items that were passed and voted on by the Board.

C. Discussion Regarding Public Employees Retirement Association (PERA) Changes and Employer/Employee Contributions

Mr. Mortillaro moved on to the review and discussion of the PERA survey data. He stated that the Compensation and Classification study that was presented to the Finance Subcommittee members and the Board on July 12, 2013 contained a survey and analysis of existing PERA

contributions by various public entities. Mr. Mortillaro stated that a further analysis shows that of the thirteen (13) City and County survey participants, excluding school districts, ten (10) contribute in excess of what their obligations are according to the PERA plan they participate in, which means they are absorbing a portion of the employees obligation. He continued further stating that the pick-up amounts range from 4% to 9.86% averaging about 4.86%. Mr. Mortillaro proceeded stating that in addition to the PERA contributions, the study also contained information regarding what if any actions other public entities are taking in respect to the new PERA increase of 1.5% for employees. He then noted that as of the date the survey was conducted, two entities had acted to pick up the increase and two were still deliberating what action it is they would take.

Mr. Mortillaro also went on to inform the Subcommittee that the Union has taken a position that because of the Collective Bargaining Agreement, you cannot increase employee's contribution amount because it's a mandatory subject of bargaining, and is very specific in the District's CBA. He noted that Mr. Dwyer would provide more information in regards to the District's legal position in this matter. Mr. Mortillaro continued stating that legally the District is only able to pick up no more than 75% of the employees contributions.

Mr. Mortillaro noted that there were a couple of decisions to be made, stating that the Board must determine whether or not they continue the PERA contributions as it is now or if the District picks up 75% or if the employee picks up 100% of the 1.5% increase.

Mr. Cordova noted that the employer will have to pick up 0.5% more next year.

Further discussion went on in regards to the 75% contribution for all employees.

Mr. Dwyer noted the before July 1, 2013 all employees were paying 9.15% into PERA as was the District. Effective July 1, 2013, the District continues to pay 9.15%, however employees making more than $20,000 annually are now to contribute 10.65%. Mr. Dwyer also mentioned that currently the District does not pay any portion of the employee's share, so with the new increase we can pick up, up to 75% of the employee's share. Mr. Dwyer continued stating that the District could either do nothing or deduct the new amount or the District can pick up a portion of the employee share. He went on to state that because the amount of 9.15% is outlined in the CBA, this could be the District's first prohibitive practices complaint of which he has discussed with Mr. Mortillaro previously. Because it is outlined in the Collective Bargaining Agreement, the Union is saying that the District cannot deduct the increased amount from Union represented employees.

Mr. Vigil noted that because there is a lot of discussion points in regards to the PERA changes it may be best to move this to the Board for discussion without a recommendation.

Mr. Dwyer mentioned that because of this discussion, some of these things may lead to some conflict in regards to this matter, in which he suggested an executive closed session be added to the Board meeting agenda. He also noted that the District may receive a prohibitive practices complaint in which some of these issues will need to be litigated due to the issues with the Union in regards to the 1.5% PERA increase. Mr. Dwyer then asked Ms. Aragon if she has already begin deductions of the 1.5% increase from employees.

Ms. Aragon stated that she started deductions this pay period.

Mr. Dwyer went on to suggest a closed session be added to discuss this issue further due to the legal implications and complicated nature of this matter.

Mr. Chavez made a motion to move this item on to the Board of Directors for full discussion with no recommendation from the Finance Subcommittee. Mr. Vigil seconded the motion and it passed by unanimous voice vote.

[Mr. Vigil left the meeting (telephonically)]

[Mr. Dwyer left the meeting (telephonically)]

D. Discussion of Budget Amendment for Federal Funds Carry-Over

Ms. Aragon moved on to the discussion the FY14 Capital budget amendment, which would be the first amendment for the Fiscal Year. Ms. Aragon gave a brief background stating that the NCRTD was awarded Capital funds for shelters, signage, trash receptacles and schedule holders in the amount of $80,000 for FY13. She noted that because it was a federal grant award, it provides for allowable expenditure through September 30, 2013. Ms. Aragon continued further stating that NCRTD has expensed $48,506 of the $80,000. She noted that the amount of $31,494 to purchase shelters and shelter related items.

Ms. Aragon continued to explain the reallocation of hours for the Maintenance position. She noted that currently the Fleet and Facilities Maintenance Worker position is budgeted at 20 hours per week. She noted that the request is to increase the hours for this position to 21 hours per week so that the employee may be eligible for benefits; this would total 52 additional hours per year, resulting in a budget line item adjustment of $691.60. Ms. Aragon mentioned that although the additional hour per week was not budgeted, the medical benefits were budgeted and allocated in the FY14 budget. She also stated that the position was also budgeted for PERA benefits, but because the position does not meet the threshold for PERA, there is a savings of $1,538.00.

It was recommended that the Finance Subcommittee review and discuss the proposed request for a budget amendment to the Capital line item of $31,494 into FY14 to facilitate the acquisition and purchase of remaining shelters and related items.

It was also recommended that the Finance Subcommittee review and discuss the proposed request to increase the 1 hour per week for the Fleet and Facilities Maintenance Worker position.

Mr. Chavez made a motion to amend FY14 Capital funds to facilitate the acquisition and purchase of remaining shelters and items as well as to support the increase of 1-hour per week for the Fleet and Facilities Maintenance Worker position. Mr. Cordova seconded the motion and it passed by unanimous voice vote.

E. NMDOT Inspector General Compliance Audit

Mr. Mortillaro stated that in in October 2011, the NMDOT Inspector General had informed the District that due to a citizen complaint alleging that the District did not expend its federal pass through funds appropriately. During that time the District was undertaking an audit of federal expenditures for FY 08-11 as well as undergoing a Fiscal Management Oversight review by the Federal Transit Administration. He also noted that the District staff had communicated to the NMDOT Inspector General their concern with duplicity of their audit and the FTA FMO review; the audit took approximately 20 months be completed and issued.

Mr. Mortillaro proceeded further with the discussion stating that the NMDOT IG did not provide a draft audit report to the District. He noted that Dave Harris of the NMDOT Transit and Rail Division had notified the District of the draft report and indicated that he was unable to convey a copy to the District due to restrictions placed on the report by the IG. Mr. Mortillaro continued stating that the NMDOT Transit and Rail Division Manager received a concurrence to allow the District to draft a response to the audit findings. He noted that the District did in fact submit their response to the NMDOT IG, in which it was never included in the final report. Mr. Mortillaro stated that the NMDOT IG never provided a final copy of the report to the District. However, the District was able to request a copy after it was submitted to other parties.

Mr. Mortillaro asked the Subcommittee members to keep in mind that a lot of the findings at the time were past practices and deficiencies that were being corrected or already noted by the FTA FMO review and by the District's new administration.

Mr. Chavez asked what the District could do to communicate fully with the Transit and Rail Division.

Mr. Mortillaro responded stating that the District communicated very frequently with Transit and Rail, and that they had a good working relationship with one another.

Mr. Chavez asked if the audit needed to be presented to the Board.

Mr. Mortillaro noted that it did not and that it was more so for informational purposes. He also noted that he would make the copy of the audit available to those who would like to see the document.

Mr. Chavez asked for Ms. Aragon's opinion was in regards to this matter.

Ms. Aragon noted that there was no sense of validity in their audit findings, and as noted earlier a lot of the findings were already being corrected.

Mr. Cordova asked if there was any follow up requested.

Mr. Mortillaro said that there was not and that the audit was really an internal document within the Transit and Rail Division.

It was determined that no more time be spent on this item.

MATTERS FROM THE SUBCOMMITEE

There were none.

Mr. Chavez made a motion to adjourn the meeting at 10:37 a.m. Mr. Cordova seconded the motion and it passed by unanimous voice vote.

ADJOURN – Next Finance Subcommittee meeting will be held on August 23, 2013 at 9:00 AM.